



ANNUAL
ACTIVITIES AND EXPENDITURES REPORT
July 1, 2017 – June 30, 2018

The following report of activities and expenditures of the State Public Defender is submitted in accordance with Miss. Code §§ 99-18-1 and 99-18-15. A docket of potential death penalty eligible cases in the circuit courts and rosters of all death penalty cases in the state are available on our webpage at <http://www.ospd.ms.gov/CapDefInfo.htm>.

STATE DEFENDER

In July, 2017, OSPD submitted a revised 5-Year Strategic Plan and FY 2019 Budget Request. OSPD sought additional funding to grow the Parent Representation project envisioned in HB 772 (2016). The request was modified to reflect level funding for all other programs consistent with LBCR. To meet the budget requirements for the current year OSPD reduced support staff effective July 1, 2017 and has not filled the Capital Defense staff attorney position vacated when Scott Johnson became director of Capital Post-Conviction Counsel. In June 2018, Indigent Appeals Division staff attorney Ben Suber resigned to pursue private practice. The State Defender is reviewing workloads for all divisions and will make a decision on filling the attorney vacancy with a capital defender, an appellate defender or a hybrid position.

OSPD restructured the distribution of legal work across the divisions at the beginning of FY 2018. As a result we restored the pay cuts to the statutory level, moved money to contractual to ensure client services were not harmed and still had an overall budget savings.

The 2018 Legislature responded positively to this plan by providing level funding for the agency. There was no additional funding for Parent Representation but OSPD continues to work with the Parent Representation Taskforce of the Supreme Court's Children's Justice Commission, private donors and counties across the state to continue the development of this important program.

Based on research and the experience of the pilots, having attorneys in these cases not only protects the fundamental rights of parents it helps move cases through the system more quickly, reducing the time kids are in foster care thus resulting in savings to the State to off-set this new expense. For example, the statewide foster care population decreased by 17% in the most recent year of data and each of the pilot sites equaled or exceeded that decrease with Hinds County (a Kellogg funded project) seeing a 30% decrease.

OFFICE OF CAPITAL DEFENSE		
YTD DETAILED EXPENSES FY 2018		
SALARIES,WAGES & FRINGE BENEFITS		-650,445.54
TRAVEL AND SUBSISTENCE - IN STATE TRAVEL AND SUBSI		-26,701.51
CONTRACTUAL SERVICES		-110,771.86
COMMODITIES		-18,117.53
TOTAL		-806,036.44
OFFICE OF INDIGENT APPEALS		
YTD DETAILED EXPENSES - FY 2018		
SALARIES,WAGES & FRINGE BENEFITS		-1,098,413.20
TRAVEL AND SUBSISTENCE - IN STATE TRAVEL AND SUBSI		-1,781.01
CONTRACTUAL SERVICES		-7,227.50
COMMODITIES		-8,025.50
TOTAL		-1,115,447.21
OFFICE OF TRAINING		
YTD DETAILED EXPENSES - JUNE, 2018		
SALARIES,WAGES & FRINGE BENEFITS		-213,882.32
TRAVEL AND SUBSISTENCE - IN STATE TRAVEL AND SUBSI		-13,496.47
CONTRACTUAL SERVICES		-185,895.61
COMMODITIES		-59,070.57
TOTAL		-472,344.97
STATE DEFENDER		
YTD DETAILED EXPENSES - FY 2018		
SALARIES,WAGES & FRINGE BENEFITS		-240,714.94
TRAVEL AND SUBSISTENCE - IN STATE TRAVEL AND SUBSI		-1,973.27
CONTRACTUAL SERVICES		-620.00
COMMODITIES		-118.78
TOTAL		-243,426.99
PARENT REP		
YTD DETAILED EXPENSES - FY 2018		
TRAVEL AND SUBSISTENCE - IN STATE TRAVEL AND SUBSI		-67.00
CONTRACTUAL SERVICES		-4,188.63
TOTAL		-128,736.21
AGENCY TOTAL		-2,765,991.82

The State Defender serves on the Corrections and Criminal Justice Oversight Taskforce and is working with the Parent Representation Taskforce of the Supreme Court's Children's Justice Commission and the Public Defender Taskforce. The State Defender served as principle drafter of reports to the Legislature for the Corrections and Public Defender taskforces. In addition OSPD has produced reports on [racial disparity](#) in the criminal justice system and recommendations for forensic mental health reforms.

OSPD entered an MOU with Jackson County and assisted with hiring of their first Parent Attorney and support staff. The plan calls for providing an ABA model program. In October a second Parent Attorney training program was presented in conjunction with the regular felony defender training and a Youth Defender program. Since June 2017 forty-nine (49) lawyers have been certified for parent defense. In addition to training defenders practicing statewide, OSPD is now supporting six of the pilot projects with training, technical assistance and funding for the defenders.



The State Defender provided testimony and research assistance to the Legislature throughout the 2018 Session. The Legislature passed and the Governor signed a significant criminal justice reform bill, HB 387. This law will make over 150 non-violent offenders eligible for parole and reduce the number of probationers reentering prison with only technical violations among other system improvements.

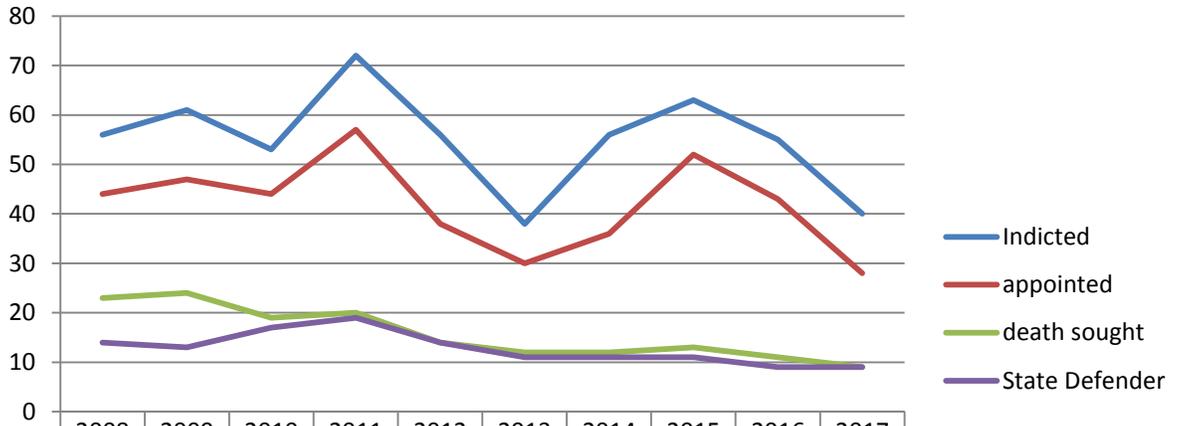
On March 19, 2018, fifty-five years after the United States Supreme Court decision in *Gideon v. Wainwright*, the Public Defender Taskforce released a comprehensive [study](#) of felony indigent defense in Mississippi. The findings and recommendations formed the basis for a [proposal](#) for indigent defense reform to be submitted to the 2019 Legislature.

CAPITAL DEFENSE

Capital Defense is currently staffed to handle a mix of 10-12 new trial level cases per year and/or 2 new appeals per year. This assumes local counsel will be appointed to serve as co-counsel. Currently the division is representing 16 clients at the trial level and four at the appeal level. These are all of the direct appeal cases pending. OSPD has reduced staffing level in Capital Defense from a high of 11 to the current 6 people in response to the reduction in death sentences sought by prosecutors.

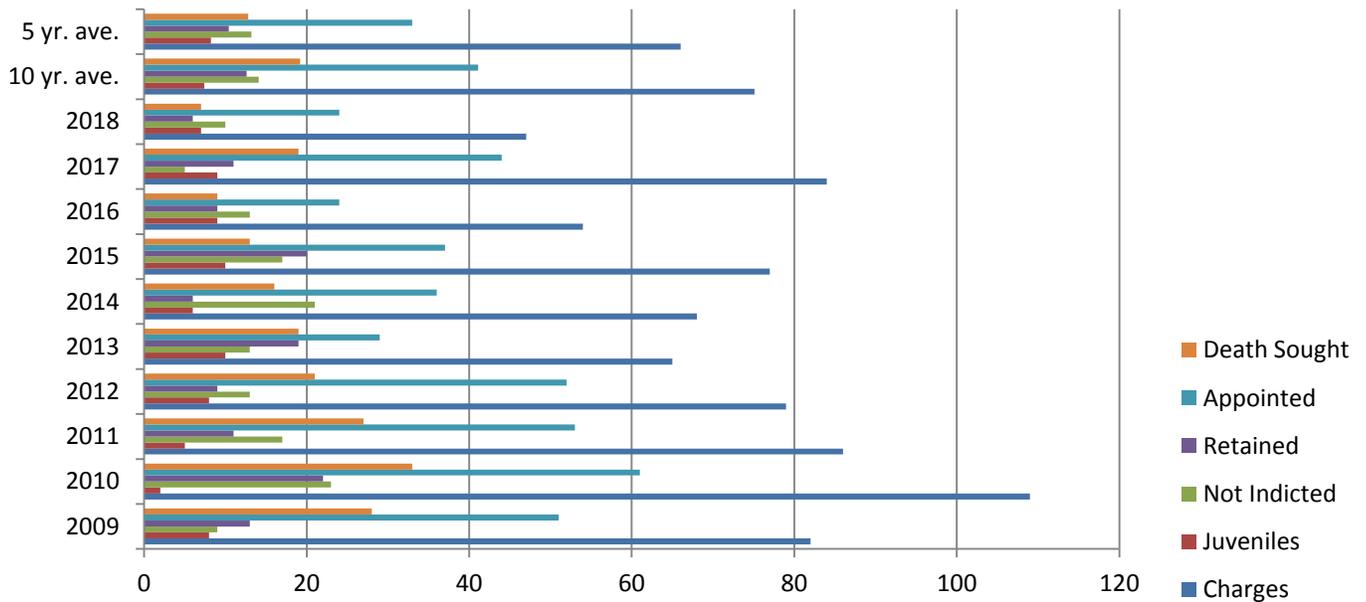
Capital Defense staff also provided training in Mississippi and across the country. Attorneys Alison Steiner and Bill Labarre presented at the Deep South Capital Defense Conference in February and mitigation specialist Lela Hubbard presented at a national death penalty training program in Baltimore.

Indicted Death Eligible Cases Opened FY 08-17



	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Indicted	56	61	53	72	56	38	56	63	55	40
appointed	44	47	44	57	38	30	36	52	43	28
death sought	23	24	19	20	14	12	12	13	11	9
State Defender	14	13	17	19	14	11	11	11	9	9

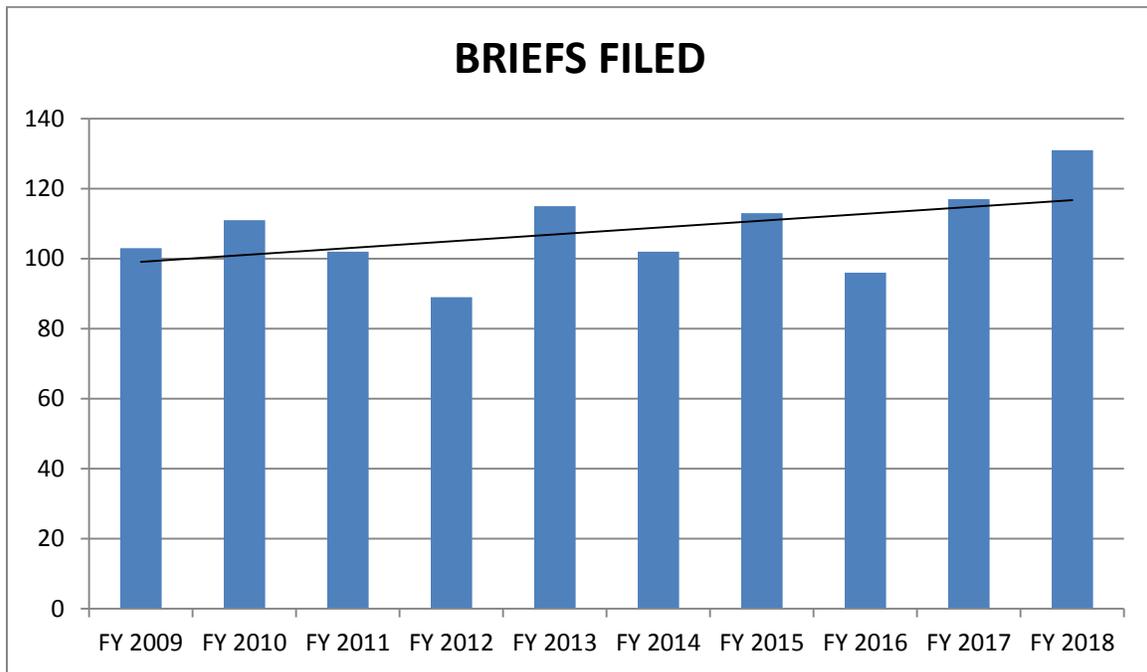
Capital Murder Cases Closed FY 09-18



	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	10 yr. ave.	5 yr. ave.
Death Sought	28	33	27	21	19	16	13	9	19	7	19.2	12.8
Appointed	51	61	53	52	29	36	37	24	44	24	41.1	33
Retained	13	22	11	9	19	6	20	9	11	6	12.6	10.4
Not Indicted	9	23	17	13	13	21	17	13	5	10	14.1	13.2
Juveniles	8	2	5	8	10	6	10	9	9	7	7.4	8.2
Charges	82	109	86	79	65	68	77	54	84	47	75.1	66

INDIGENT APPEALS

In FY 2018 the Indigent Appeals Division filed 131 briefs. This is the highest number of annual briefs filed in the history of the program.



IAD currently has 219 open cases including 37 awaiting the filing of the record and briefing schedule and nine assigned to the Criminal Appeals Clinic at UM Law School. The remaining 173 cases are divided between the six staff attorneys. There are an additional seven (7) cases being handled by private contract attorneys due to conflicts of interest. One case involving termination of parental rights is being handled by an outside specialist in child welfare law.

The staff attorneys of IAD rotate responsibility for summarizing appellate court decisions to be disseminated to county level public defenders and routinely answer questions from these defenders in the field and make presentations at CLE programs.

IAD director George Holmes served on the DUI Information-Exchange Improvement Advisory Committee. Staff Attorney Justin Cook presented appellate court updates at the semi-annual defender training seminars and serves on the Supreme Court Rules Committee and as Vice-President of the Mississippi Public Defender Association.

DEFENDER TRAINING

In addition to providing support to the State Defender in developing the Parent Representation program and system reorganization plan, the Training Division is assisting with the development of a mental health cases resource project and defender data project. The Division is providing on-going technical assistance to trial level defenders. In October 2017 the division provided a public defender CLE seminar attended by 90 felony defenders with separate programs for youth court defenders and parent attorneys. Eighteen (18) youth defenders received training certification and fifteen (15) parent attorneys received certification.

In January the division took the lead in developing and producing the first ever multi-disciplinary training program for the child welfare system. *Coming Together to Safeguard MS Families: A Multidisciplinary Training Focusing on Safety and Removal* was held at Mississippi College School of Law. Eighty-nine people attended the program including Youth Court judges and staff, parent attorneys, prosecutors and CPS workers. The program was supported by MC, Casey Family Programs and the Administrative Office of Courts. OSPD, at the request of the Parent Representation Taskforce and Casey, has developed a plan for more multi-disciplinary training programs.

In February the division again hosted the *Deep South Capital Defense Conference*. Eighty-two attendees each earned 18 continuing legal education credits. The program included participants from neighboring states and consisted of both a death penalty and juvenile life track. Approximately 50 Mississippi attorneys, including staff of the Office of Post-Conviction Counsel, met the Supreme Court training requirements for death penalty representation.

In addition to the bi-annual training conferences OSPD continues to provide technical assistance to attorneys handling cases for juvenile offenders facing life without parole sentences (JLWOP) through the Juvenile Parole Resource Counsel project funded through a grant from the Vital Projects Fund in cooperation with the Southern Poverty Law Center (SPLC).

Effective January 1, 2018, this program expanded with the receipt of an additional grant from SPLC. The new grant provides funding for a full-time attorney and mitigation specialist. The grant is for one-year with renewal option for second year. In February JLWOP Resource Counsel Stacy Ferraro presented at the *Miller*-track of the Deep South Capital Defense Conference and in March presented on *Miller v. Alabama* sentencing issues to the Oklahoma Public Defender CLE seminar.

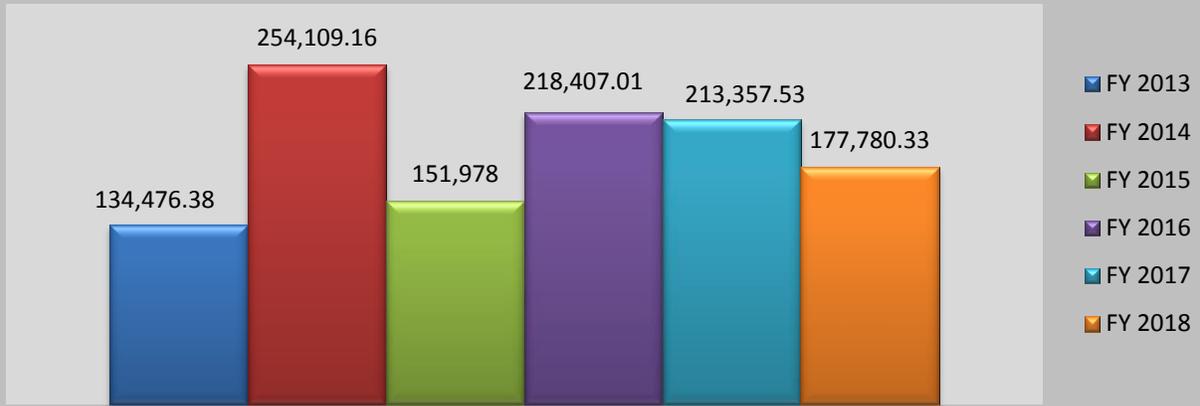
OSPD was recognized for its leadership and service in this area by CRYOUT, a family centered advocacy organization for juvenile offenders, at its 5th Year Anniversary celebration.

In March the division partnered with Disability Rights Mississippi and the National Organization of Fetal Alcohol Syndrome to produce a multidisciplinary training program on Fetal Alcohol Spectrum Disorder. Thirty people attended and the attorney participants received 5 hours of CLE.

In April 2018 the division provided a public defender CLE seminar attended by 127 felony defenders with separate programs for youth court defenders and parent attorneys.

Throughout FY 2018 the division provided nine training opportunities. Four (4) were focused on felony representation, two (2) focused on juvenile defense in Youth Court and three (3) focused on parent defense in Youth Court. The total attendance was 510 at a cost of less than \$350 per participant.

Total Expenditures



Participants

